

with the provisions of part 212 of this chapter.

(Secs. 204, 402, Pub. L. 85-726, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1371)

[ER-1223, 46 FR 28379, May 26, 1981]

PART 215—USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS AND COMMUTER AIR CARRIERS

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AUTHORITY: 49 U.S.C. Chapters 401, 411, 413, 417.

SOURCE: 53 FR 17923, May 19, 1988, unless otherwise noted.

§ 215.1 Applicability.

This part applies to all certified air carriers, commuter air carriers, and foreign direct air carriers and to initial or amended applications for authority, applications for certificate or permit transfers or reissuances, and registration of business names.

§ 215.2 Purpose.

This part sets rules under which direct air carriers may use the names in their operating authorizations and change those names. It further provides for notification to air carriers that may be affected by the use by other air carriers of the same or similar names. Its purpose is to place the responsibility for resolving private disputes about the use of similar names with the air carriers involved, through recourse to the trade names statutes and the courts. These rules do not preclude Department intervention or enforcement action should there be evidence of a significant potential for, or of actual, public confusion.

§ 215.3 Use of name.

In holding out to the public and in performing air transportation services, a direct air carrier or foreign direct air carrier subject to this part shall use only the name in which its operating

authorization is issued or trade name is registered, and shall not operate or hold out to the public in a name not acknowledged by the Department to be so registered. Except as provided in §§ 221.21(J) and 221.35(d) of this chapter, minor variations in the use of this name, including abbreviations, contractions, initial letters, or other variations of the name that are identifiable with the authorized name, are permitted. Slogans and service marks shall not be considered names for the purpose of this part, and their use is not restricted.

§ 215.4 Change of name or use of trade name.

(a) *Registrations.* Any air carrier subject to this part that desires to change the name in which its operating authorization has been issued, or to use a trade name, or to obtain initial operating authority must register the name with the Department. The Department will construe any application for initial, reissued, or transferred authority, as well as any commuter air carrier registration or amendment filed under part 298, as containing a "registration" of the intended name. A separate name registration document need not be filed. A carrier registering use of a trade name, without seeking reissuance of its underlying certificate or foreign air carrier permit or exemption authority, must file a statement that complies with §§ 302.3 and 302.4 of this chapter registering its intended name with the Air Carrier Fitness Division if it is a U.S. certificated or commuter carrier, or within the Licensing Division if it is a foreign air carrier.

(b) *Montreal Agreement.* Each registration under this section shall be accompanied by three copies of a counterpart to the Montreal Agreement (Agreement 18900) (OST Form 4523) signed by the carrier using the proposed name. Upon arrival of the application, the Department will place a copy of the signed OST form 4523 in Docket 17325.

(Reporting and recordkeeping requirements in paragraph (b) were approved by the Office of Management and Budget under control number 3024-0064.)

§ 215.5 Procedure in case of similarity of names.

The Department will compare the proposed name in any registration filed under this part or in an application for new, reissued, or transferred authority with a list of names used by existing certificated, commuter and foreign direct air carriers. The Department will notify the applicant of any other certificated, foreign or commuter carriers that may have an identical or similar name. The registrant must then notify those carriers of its registration. The notification will identify the applicant and state its proposed name or the name requested, area of operation or proposed area of operation, type of business, and other pertinent matters. The registrant must then file a certificate of service of the notification with the Department.

§ 215.6 Acknowledgment of registration.

After completion of the filing and notification requirements of this part, the Department may acknowledge the registration by notice in the action granting the application for initial operating authority, transfer, or reissuance or in approving the commuter registration, or by separate notice in the case of use of a trade name. Non-action under this provision shall not be construed as an adjudication of any rights or liabilities.

PART 216—COMMINGLING OF BLIND SECTOR TRAFFIC BY FOREIGN AIR CARRIERS

Sec.

216.1 Definitions.

216.2 Applicability.

216.3 Prohibition.

216.4 Special authorizations.

216.5 Existing permits.

216.6 Existing unauthorized operations.

AUTHORITY: Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324(a). Interpret or apply secs. 402 and 1108(b), 72 Stat. 757, 798; 49 U.S.C. 1372, 1508(b).

SOURCE: ER-525, 33 FR 692, Jan. 19, 1968, unless otherwise noted.

§ 216.1 Definitions.

(a) As used in this part, unless the context otherwise requires:

Act means the Federal Aviation Act of 1958, as amended.

Blind sector traffic means revenue traffic, carried by a foreign air carrier on a flight operating in air transportation, which is enplaned at one foreign point and deplaned at another foreign point, where at least one of such points is not named as a terminal or intermediate point in the carrier's applicable foreign air carrier permit.

NOTE: This definition shall not be deemed to include the carriage of authorized *beyond homeland* traffic (i.e., traffic carried between a point named in a carrier's foreign air carrier permit and a point beyond a homeland terminal point authorized under such permit).

Revenue traffic means persons, property or mail carried for compensation or hire.

(b) Terms defined in section 101 of the Act have the meaning expressed in such definitions.

§ 216.2 Applicability.

This part sets forth the requirements applicable to foreign air carriers for obtaining a Special Authorization from the Board with respect to any deviation from an authorized foreign air transportation route for the purpose of commingling blind sector traffic with air transportation traffic carried pursuant to a foreign air carrier permit issued by the Board. The deviation by a foreign air carrier from its authorized route for the purpose of combined carriage to or from the United States of nonrevenue or other traffic, the carriage of which does not constitute engaging in foreign air transportation, is governed by the provisions of part 375 of this chapter.

§ 216.3 Prohibition.

No foreign air carrier shall carry any blind sector traffic, as defined in this part, on any flight operating in air transportation pursuant to the authority of a foreign air carrier permit issued under section 402 of the Act, unless the combined carriage of such traffic has been specifically authorized by such permit, or by a Special Authorization issued under § 216.4.